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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Letter dated 15 February 2018 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

This month marks the twenty-sixth anniversary of the heinous crime committed against the civilians and defenders of the town of Khojaly, in the Nagorno-Karabakh region of Azerbaijan. What happened in Khojaly in February 1992 was the largest massacre in the conflict.

Before the war, 7,000 people lived in that town. From October 1991, the town was entirely surrounded by the Armenian forces. In the night of 25 to 26 February 1992, following massive artillery bombardments, the assault on the town began from various directions. As a result of the attack and capture of the town, hundreds of Azerbaijanis, including women, children and the elderly, were killed, wounded or taken hostage, while the town was razed to the ground.

In 1993, the Security Council adopted four resolutions on the conflict, condemning the occupation of the territories of Azerbaijan and reaffirming respect for its sovereignty and territorial integrity, the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory. In response to Armenia's territorial claims and actions, the Council reconfirmed that the Nagorno-Karabakh region is an integral part of Azerbaijan and demanded the immediate, complete and unconditional withdrawal of the occupying forces from all the occupied territories.[1]

In those resolutions, as well as in its presidential statements, the Security Council also expressed grave concern about "violations of ceasefire agreements which have caused heavy losses of human life and widespread material damage", "the displacement of a large number of civilians in Azerbaijan" and "the serious humanitarian emergency in the region", condemned the "attacks on civilians and bombardments of the territory of the Azerbaijani Republic" and reaffirmed that the

[1] Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993).

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parties "are bound to comply with the principles and rules of international humanitarian law".

Other international organizations also strongly deplored the Armenian side for the use of military force and affirmed its direct responsibility for serious violations of international humanitarian law committed in the course of the war.

Thus, having considered the impact of the conflict on the civilian population in the area of combat operations, particularly the massacre in the town of Khojaly in February 1992, the Committee of Ministers of the Council of Europe, in a declaration dated 11 March 1992, expressed deep concern "about recent reports of indiscriminate killings and outrages", firmly condemned "the violence and attacks directed against the civilian populations in the Nagorno-Karabakh area of the Azerbaijan Republic" and underlined that "no solution imposed by force can be accepted by the international community".[2]

In 1993, the then Minister for Foreign Affairs of Sweden, Margaretha af Ugglas, in her capacity as Chairperson-in-Office of the Council of the Conference on Security and Cooperation in Europe, underlined that the acquisition of territory by force can never be condoned or accepted as a basis for territorial claims[3] and expressed grave concern at the unacceptable scorched-earth policy practised by the Armenian armed forces.[4]

In its resolution 1416 (2005) of 25 January 2005, the Parliamentary Assembly of the Council of Europe noted particularly that "considerable parts of the territory of Azerbaijan are still occupied by Armenian forces" and that "the military action, and the widespread ethnic hostilities which preceded it, led to large-scale ethnic expulsion and the creation of mono-ethnic areas which resemble the terrible concept of ethnic cleansing".[5]

Referring to the reports of independent sources, the European Court of Human Rights pointed out that "at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town". The Court qualified atrocities committed in Khojaly as "acts of particular gravity which may amount to war crimes or crimes against humanity".[6]

There are abundant sources, consisting of the testimonies of witnesses to the tragedy, statements by authoritative international institutions and the findings of independent investigations by foreign journalists, human rights activists and

[2] Declaration adopted by the Committee of Ministers of the Council of Europe on 11 March 1992 at the 471bis meeting of the Ministers' Deputies.

[3] Council of the Conference on Security and Cooperation in Europe, Communication No. 284, Prague, 26 October 1993.

[4] Council of the Conference on Security and Cooperation in Europe, Communication No. 301, Prague, 19 November 1993.

[5] Resolution 1416 (2005) of the Parliamentary Assembly of the Council of Europe, entitled "The conflict over the Nagorno-Karabakh region dealt with by the OSCE Minsk Conference", 25 January 2005.

[6] Judgment of the European Court of Human Rights, 22 April 2010, para. 87.

authoritative international non-governmental organizations, which contribute to corroborating the facts on the ground.[7]

Thus, based on the results of their inquiries, Human Rights Watch/Helsinki and the Memorial Human Rights Centre placed direct responsibility for the civilian deaths with the Armenian forces.

In her letter dated 24 March 1997 addressed to the then Minister for Foreign Affairs of Armenia, the Executive Director of Human Rights Watch/Helsinki responded as follows to attempts by Armenian propaganda to obfuscate this human rights organization with fabrications:

> Our research and that of the Memorial Human Rights Centre found that the retreating militia fled Khojaly along with some of the large groups of fleeing civilians. Our report noted that by remaining armed and in uniform, the Azerbaijani militia may be considered as combatants and thus endangered fleeing civilians, even if their intent had been to protect them. *Yet we place direct responsibility for the civilian deaths with Karabakh Armenian forces. Indeed, neither our report nor that of [the Centre] includes any evidence to support the argument that Azerbaijani forces obstructed the flight of, or fired on Azeri civilians.*[8]

According to the Memorial Human Rights Centre, "there was mass violence upon the civilians of Khojaly during the military operation to take this town"; "the mass murder of civilians in the 'free corridor' zone and adjacent territory cannot be justified under any circumstances"; "the civilians remaining in Khojaly after it was taken by Armenian detachments were deported"; "these actions were carried out in an organized manner"; "there was violent treatment of the detained inhabitants of Khojaly". The Centre concludes its investigation by stating that "the actions by the Armenian units of Nagorno Karabakh towards the civilians of Khojaly during the assault on the town are a gross violation of the Geneva Convention and also of the ... Universal Declaration of Human Rights".[9]

Furthermore, public statements by Armenian officials and the leaders of the subordinate separatist regime that Armenia established in the occupied territories of Azerbaijan are undoubtedly regarded as an admission of liability.

The following words of the incumbent President of Armenia, Serzh Sargsyan, who served as senior commander of the illegal armed groups, which directly participated in the seizure of Khojaly and mass killings of its inhabitants, speak for themselves and disprove any denial of responsibility for the crimes committed by the Armenian side in the town: "Before Khojali, the Azerbaijanis thought that they were joking with us, they thought that the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]. And that's what happened."[10]

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[7] For more information, see www.justiceforkhojaly.org and Fiona Maclachlan and Ian Peart, eds., *Khojaly Witness of a War Crime: Armenia in the Dock* (Reading, United Kingdom of Great Britain and Northern Ireland, Ithaca Press, 2014).

[8] Emphasis added. The full text of the letter is available at www.hrw.org/legacy/english/docs/1997/03/24/azerba16933.htm.

[9] Report by the Memorial Human Rights Centre on massive violations of human rights committed in the seizure of Khojaly during the night of 25 to 26 February 1992; see also Maclachlan and Peart (eds.), *Khojaly Witness of a War Crime*.

[10] See Thomas de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (New York and London, New York University Press, 2003).

In his article, Jirair Libaridian, who was chief advisor to the first President of Armenia, Levon Ter-Petrossian, at the time of the Khojaly massacre, admitted that "it is very difficult for an Armenian to write about Khojali" because "something unacceptable did happen, something that involved killings and mutilation of Azeri civilians by Armenian forces in Karabakh".[11]

According to another Armenian author, Markar Melkonian, in his book dedicated to his brother, the well-known international terrorist Monte Melkonian, who personally took part in the assault on Khojaly, the town "had been a strategic goal, but it had also been an act of revenge". Melkonian particularly mentions the role of the fighters of the two Armenian military detachments Arabo and Aramo and describes in detail how they butchered the peaceful inhabitants of Khojaly. Thus, as he puts it, some inhabitants of the town had almost made it to safety, after fleeing for nearly six miles, when "[Armenian] soldiers had chased them down". The soldiers, in his words, "unsheathed the knives they had carried on their hips for so long, and began stabbing".[12]

The crimes committed in Khojaly were not an isolated or sporadic act, but an integral part of Armenia's widespread and systematic policy and practice of carrying out atrocities.

As one author has observed, "a key component of the Karabakh insurgency's strategy was the cleansing of Azeri civilians from towns and villages inside Nagorno-Karabakh and in the territories separating Nagorno-Karabakh from Armenia". In order to achieve that objective, "major Azeri towns in the region ... were looted, burned, and 'systematically levelled so that only foundations remain' and their Azeri populations were forcibly expelled". The author further notes that "one of the most vicious expulsions took place during an attack on Khojali in February 1992", where Armenian forces killed hundreds of Azerbaijani civilians, "many of whom were unarmed and were killed while fleeing across open territory".[13]

In his report on the protection of civilians in armed conflict, the Secretary-General notes in particular that "fundamental to enhancing respect for international law is the need to ensure accountability for violations", which is "crucial to provide redress for victims, deter further violations and promote peace and reconciliation" (see S/2017/414, paras. 33 and 70).

Unfortunately, the perpetrators of the crimes committed in Khojaly and elsewhere in the occupied territories of Azerbaijan continue to enjoy impunity. The position of the Republic of Azerbaijan in that regard is clear. The establishment of truth with respect to gross violations of international humanitarian and human rights law committed during the conflict, the provision of adequate and effective reparations to victims and the need for institutional actions to prevent the repetition of such violations are among the necessary prerequisites for sustainable peace and long-term stability.

It is therefore important that peace efforts, including those being undertaken towards the resolution of the conflict between Armenia and Azerbaijan, do not encourage, accept or tolerate the situations achieved by the unlawful use of force and

[11] Jirair Libaridian, "An Armenian Perspective on Khojali", 19 February 2014.

[12] Markar Malkonian, *My Brother's Road: An American's Fateful Journey to Armenia* (London and New York, I.B. Tauris, 2005).

[13] See Jessica A. Stanton, *Violence and Restraint in Civil War: Civilian Targeting in the Shadow of International Law* (New York, Cambridge University Press, 2016).

other egregious violations of international law, such as war crimes, ethnic cleansing, crimes against humanity and genocide.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 35 and 40, and of the Security Council.

(*Signed*) Yashar **Aliyev**
Ambassador
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